IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

WA.No. 647 of 2006()

AGAINST THE JUDGEMENT/ORDER IN WPC.25375/2005 Dated 09/03/2006
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APPELLANT: PETITIONER IN W.P.

A.PIOUS, NON-VOCATIONAL TEACHER
(GENERAL FOUNDATION COURSE), ST.MICHAEL'S
VOCATIONAL HIGHER SECONDARY SCHOOL, KUMBALAM P.O.,
KOLLAM.

BY ADV. SRI.ELVIN PETER P.J.
SRI.ELVIN PETER P.J.
SRI.S.RAMESH
SRI.P.N.SANTHOSH
SRI.NAVEEN.T
SRI.T.G.SUNIL (PRANAVAM)

RESPONDENTS: RESPONDENTS IN W.P.

1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF VOCATIONAL HIGHER
SECONDARY EDUCATION, HOUSING BOARD BUILDING,
SANTHI NAGAR, THIRUVANANTHAPURAM.

3. THE MANAGER, ST.MICHAEL'S VOCATIONAL
HIGHER SECONDARY SCHOOL, KUMBALAM P.O.,
KOLLAM.

Additional respondents:

4. PREMA MENON.C., W/O RAJAN
AGED 43 YEARS
G.F.C.TEACHER, ISLAMIC V.H.S.S, ORUMANAYOOR,
NETTISSERYP.O. MUKKATTUKARA
THRISSUR-680 657.

5. SURESH .P.N., S/O LATE NATARAJAN
AGED 43 YEARS
G.F.C.TEACHER, SNDP V.H.S.S., KANJETTUKARA
RESIDING AT ALAPUZHAYIL HOUSE,
PANDALAM, ADOOR.

(Additional respondents R4 and R5 impleaded as per order dated 25-10-2006 on I.A.1002/06.)

BY ADV. SRI.ALEX N.MATHEW (KOLLAM)
SRI.H.RAMANAN
SRI.K.P.DANDAPANI
GOVERNMENT PLEADER SRI.BENNY GERVACIS.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 21/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.A.ABDUL GAFOOR & K.P.BALACHANDRAN, JJ.

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Writ Appeal No.647 of 2006

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Dated this the 21st day of December 2006

JUDGMENT

ABDUL GAFOOR, J.

Admittedly the appellant is a teacher in non-vocational subject in an aided school named St. Michael's Vocational Higher Secondary School, Kumbalam, Kollam. Further, admittedly the hours of work for the subject for which he has been appointed as per Ext.P1 are less than six hours per week. At the time of appointment, emoluments were regulated in terms of the then existing order, Ext.P2 dated 26-9-1995. It provided that teachers in non-vocational subject with less than 6 hours of work will be paid a consolidated salary of Rs.2,100/- per mensum. Later, salary payable to the counterparts in Government service was fixed in the scale of pay of Rs.5500-9075, in respect of those who are having working hours of less than 15 per week. In such circumstances, there is no reason to leave the category to which the petitioner belongs with a consolidated pay alone. With that intend Government had circulated Ext.P4 draft rules in the same pattern

of special rules for non-vocational teachers in Government schools. These draft rules were prepared in the year 2004, so far it is not finalised. Therefore, it was discriminatory to deny equal pay for equal work as admissible to the counterpart in Government service. It was highlighted that the persons with less than 6 hours of work in non-vocational subjects working in Government schools are being paid salary in the scale of pay of Rs.5500-9075 including to the junior teachers with less than 15 hours of work. Therefore, the same treatment should have been extended to the writ petitioner as well, it was contented in the writ petition.

2. Taking note of this contention, pendency of the Ext.P4 draft rules and the submissions made by the Government Pleader that there were several rounds of discussions with the service organisations of the teachers and that Government was pursuing the matter vigorously to take appropriate steps, learned single Judge disposed of the writ petition recording the said submission of the Government Pleader. It was also made clear that Government should make an earnest endeavor to do the needful expeditiously, in the judgment.

3. The writ petitioner has carried the matter in appeal, again alleging discrimination and violation of the rights available to him in the matter of denial of equal wages for equal work.

4. Admittedly, the appellant is an aided school teacher having almost one hour of work per day. The amount of wages or salary or emoluments payable to such an incumbent taking into account salary payable to similar categories of employees in Government service having similar duties, shall have to be decided by Government. When asked about the submission made by the Government Pleader before the learned single Judge and the follow up action taken, it is submitted by the Government Pleader that after further rounds of discussions the draft rules are under consideration of the Law Department to the Government of Kerala. It is also submitted that the Government shall see that the rules are finalised within six months from today.

5. The writ appeal is therefore disposed of, recording the said submissions and the Government is directed to pass appropriate orders in finalisation of Ext.P4 rules within six months. Petitioners/respondents 4 and 5 can, on finalisation of the rule, if

they are aggrieved, can approach this court again in appropriate proceeding.

Writ appeal is disposed of as above.

K.A.ABDUL GAFOOR, JUDGE

K.P.BALACHANDRAN, JUDGE